

appropriations bill contains a provision that would delay the reorganization plan until March 1997, at the earliest. In addition, before implementing its reorganization, the IRS will have to submit a report to the Congress justifying its plan on cost-benefit grounds.

This provision is not a perfect solution to this problem. I would have preferred the original language offered by Senator KERREY of Nebraska to the freestanding Treasury-Postal appropriations bill. That language would have delayed the reorganization until the National Commission on Restructuring the Internal Revenue Service had a chance to issue its final report.

Nevertheless, this provision buys us time to try to understand the proposed reorganization and to see whether the IRS can justify its plan. I look forward to working with the distinguished minority leader, Senator DASCHLE, and the ranking member of the Treasury-Postal Appropriations Subcommittee, Senator KERREY, to ensure that the IRS does not abandon rural States in a misguided attempt to achieve phantom savings.

Thank you, Mr. President. I yield the floor.

FEDERAL FIREARMS DISABILITIES PROVISION OF THE OMNIBUS APPROPRIATIONS BILL

Mr. SIMON. Mr. President, upon the passage of the omnibus appropriations package, I would like to take a moment to discuss a provision that will prohibit the expenditure of funds for the Bureau of Alcohol, Tobacco and Firearms' [ATF] disability relief program.

The background behind this simple provision is as follows. Under current Federal law, someone who has been convicted of a crime punishable by more than 1 year is ineligible, or disabled, from possessing a firearm—a sensible idea. However, Congress created a loophole in 1965 whereby convicted felons could apply to ATF to have their firearm privileges restored, at an estimated taxpayer cost of \$10,000 per waiver granted.

We have fought to end this program and have succeeded in stripping the program's funding in annual appropriations bills since 1992.

This year, we faced an additional challenge in our efforts to keep guns out of the hands of convicted felons. A recent court case in Pennsylvania misinterpreted our intentions and opened the door for these convicted felons to apply for judicial review of their disability relief applications.

In this case, *Rice versus United States*, the Third Circuit Court of Appeals found that the current funding prohibition does not make clear congressional intent to bar all avenues of relief for convicted felons. By their reasoning, since ATF is unable to consider applications for relief, felons are entitled to ask the courts to review their applications.

This misguided decision could flood the courts with felons seeking the restoration of their gun rights, effectively shifting from ATF to the courts the burden of considering these applications. Instead of wasting taxpayer money and the time of ATF agents, which could be much better spent on important law enforcement efforts, such as the investigation of church arsons, we would now be wasting court resources and distracting the courts from consideration of serious criminal cases.

Fortunately, another decision by the fifth circuit in *U.S. versus McGill* found that congressional intent to prohibit any Federal relief—either through ATF or the courts—is clear. The fifth circuit concluded that convicted felons are therefore not eligible for judicial review of their relief applications.

Given this conflict in the circuit courts, it is important that we once again clarify our original and sustaining intention. The goal of this provision has always been to prohibit convicted felons from getting their guns back—whether through ATF or the courts. It was never our intention to shift the burden to the courts.

Congressman DURBIN and his colleagues succeeded in their efforts to include language in the House appropriations bill to make clear that convicted felons may not use the courts in their efforts to get their guns back. I applaud the House committee for its wise vote on this issue.

During the same markup, Congressman DURBIN's efforts were undermined by a related exemption offered by Congressman OBEY. This exemption would have allowed those individuals convicted of nonviolent felonies the ability to appeal for judicial review of their relief application.

According to Congressman OBEY's amendment, the opportunity to appeal to the courts would have been closed to those felons convicted of violent crimes, firearms violations, or drug-related crimes. All other felons would have been allowed to apply to the courts for review of their relief applications.

Mr. OBEY's exemption was clearly inconsistent with the original intent of this provision for three simple reasons:

First, one need only consider people like Al Capone and countless other violent criminals who were convicted of lesser, nonviolent felonies, to understand how dangerous this Capone amendment will be to public safety. Our intent when we first passed this provision—and every year thereafter—has been to prohibit anyone who was convicted of a crime punishable by more than 1 year from restoring their gun privileges via the ATF procedure or a judicial review.

Second, as Dewey Stokes, the former president of the Fraternal Order of Police noted, most criminals do not commit murder as their first crime. Rather, most criminals start by committing

nonviolent crimes which escalate into violent crimes. An ATF analysis shows that between 1985 and 1992, 69 nonviolent felons were granted firearms relief and subsequently re-arrested for violent crimes such as attempted murder, first degree sexual assault, child molestation, kidnaping/abduction, and drug trafficking.

Third, there is no reason in the world for the taxpayers' money and court resources to be wasted by allowing the review of any convicted felons' application to get their guns back. It made no sense for ATF to take agents away from their important law enforcement work, and it makes even less sense for the courts, which have no experience or expertise in this area, to be burdened with this unnecessary job. Let me make this point perfectly clear: It was never our intent, nor is it now, for the courts to review a convicted felon's application for firearm privilege restoration.

I am pleased that the conference committee understood our original intention and did not allow the Obey provision to stand. As it stands, the omnibus appropriations law is consistent with our lasting desire to stop arming felons.

Mr. LAUTENBERG. I thank the Senator for clearly laying out the facts. As the coauthor of this provision, I share his interest and concern about this issue. I am also pleased that the conference committee understood our intent regarding the Federal firearms relief program. I agree with his analysis completely and intend to closely follow this situation in the coming year to see if any further legislation is necessary to clarify our intent. I would also like to take this opportunity to let my colleague know how much I enjoyed working on this issue with him as well as so many other matters. I want to thank him for his commitment to this issue, and for the excellent work of Susan Kaplan and Amy Isbell of his staff, and I want to ensure him that although he will not be here next year to continue his work in the Senate on this matter, I fully intend to carry on the fight for us both.

TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. HOLLINGS. Mr. President, as others have noted, this is a season when we are used to witnessing the departure of some of our colleagues who have chosen to end their careers here in the Senate to pursue other interests. And again, as others have noted, this particular iteration of these departures is notable, not only because of the numbers of our friends who are going on to other pursuits, but more importantly because of the quality of their contributions while they were here, which we now face doing without. Our departing colleagues have distinguished themselves as statesmen and patriots, one and all. But even among giants, there are always those who stand even a little taller.